UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BRIAN HURLEY, Plaintiff, -against- THE CITY OF NEW YORK, ET AL., Defendants.	1:14-cv-00059-DLC ANSWER JURY TRIAL DEMANDED

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Defendants the City of New York and Police Officer Jonathan Correa, by their attorney, Zachary W. Carter, Corporation Counsel of the City of New York, as and for their answer to the Complaint, dated January 6, 2013 respectfully:

1. Deny the allegations set forth in paragraph “1” of the complaint, except admit that plaintiff has commenced an action as stated therein.

2. Deny the allegations set forth in paragraph “2” of the complaint.

3. Deny the allegations set forth in paragraph “3” of the complaint, except admit that plaintiff seeks relief as stated therein.

4. Deny the allegations set forth in paragraph “4” of the complaint, except admit only that plaintiff purports to invoke the jurisdiction of the Court as stated therein.

5. Deny the allegations set forth in paragraph “5” of the complaint, except admit that plaintiff purports to base venue in this district as stated therein.

6. Deny the allegations set forth in paragraph “6” of the complaint, except admit that plaintiff seeks relief as stated therein.

7. Deny knowledge or information sufficient to form a belief as to the truth of

the allegations set forth in paragraph “7” of the complaint.

8. Deny the allegations set forth in paragraph “8” of the complaint, except admit that the City is a municipal corporation incorporated under the laws of the State of New York, that the City maintains a police department and respectfully refers the Court and plaintiff to the New York City Charter and the Administrative Code for a recitation of the relationship between the City and the NYPD, and that the allegations regarding the City’s responsibilities and assumptions of risk are legal conclusions that do not require a response.

9. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “9” of the complaint, except admit that Correa is, and was on December 3, 2013, employed by the City as a police officer.

10. Deny the allegations set forth in paragraph “10” of the complaint, except admit that plaintiff purports to proceed as stated therein.

11. State that the allegations set forth in paragraph “11” of the complaint do not contain any statement of facts which require a response.

12. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “12” of the complaint, except state that the allegations regarding representation and notice are legal conclusions which do not require a response.

13. Deny the allegations set forth in paragraph “13” of the complaint.

14. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “14” of the complaint.

15. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “16” of the complaint, except admit that Correa approached plaintiff in a subway station.

16. Deny the allegations set forth in paragraph “16” of the complaint, except

admit that Correa asked Mr. Hurley what was clipped to his belt.

17. Deny the allegations set forth in paragraph “17” of the complaint.

18. Admit the allegations set forth in paragraph “18” of the complaint.

19. Deny the allegations set forth in paragraph “19” of the complaint.

20. Deny the allegations set forth in paragraph “20” of the complaint.

21. Deny the allegations set forth in paragraph “21” of the complaint.

22. Deny the allegations set forth in paragraph “22” of the complaint.

23. Deny the allegations set forth in paragraph “23” of the complaint.

24. Deny the allegations set forth in paragraph “24” of the complaint.

25. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “26” of the complaint, except admit that plaintiff was arrested.

26. Admit the allegations set forth in paragraph “26” of the complaint.

27. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “28” of the complaint, except admit that plaintiff requested and received medical attention.

28. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “29” of the complaint, except admit that plaintiff was transported to central booking.

29. Deny the allegations set forth in paragraph “29” of the complaint, except admit, upon information and belief, that the District Attorney’s Office declined to prosecute.

30. Deny the allegations set forth in paragraph “30” of the complaint, except admit, upon information and belief, that plaintiff was held for 20 hours and 42 minutes prior to arraignment.

31. In response to the allegations set forth in paragraph “31” of the complaint,

32. Deny the allegations set forth in paragraph “32” of the complaint.

33. Deny the allegations set forth in paragraph “33” of the complaint.

34. In response to the allegations set forth in paragraph “34” of the complaint, defendants repeat and reallege the responses set forth in the previous paragraphs as if fully set forth herein.

35. Deny the allegations set forth in paragraph “35” of the complaint.

36. Deny the allegations set forth in paragraph “36” of the complaint.

37. Deny the allegations set forth in paragraph “37” of the complaint.

38. Deny the allegations set forth in paragraph “38” of the complaint and all its subparts, and respectfully refer the Court to the periodicals and cases cited therein for their contents.

39. Deny the allegations set forth in paragraph “39” of the complaint.

40. Deny the allegations set forth in paragraph “40” of the complaint.

41. Deny the allegations set forth in paragraph “41” of the complaint.

42. Deny the allegations set forth in paragraph “42” of the complaint.

43. Deny the allegations set forth in paragraph “43” of the complaint.

44. Deny the allegations set forth in paragraph “44” of the complaint.

45. Deny the allegations set forth in paragraph “45” of the complaint.

46. State that the allegations set forth in paragraph “46” of the complaint is a demand for a trial by jury, to which no response is required.

FIRST AFFIRMATIVE DEFENSE

47. The complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

48. Defendants have not violated any rights, privileges or immunities under the Constitution or laws of the United State or the State of New York or any political subdivision thereof, nor have defendants violated any act of Congress providing for the protection of civil rights.

THIRD AFFIRMATIVE DEFENSE

49. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct or the culpable or negligent conduct of third parties, and was not the proximate result of any act of defendants.

FOURTH AFFIRMATIVE DEFENSE

50. Plaintiff provoked or was at fault for the incident.

FIFTH AFFIRMATIVE DEFENSE

51. There was probable cause to arrest plaintiff.

SIXTH AFFIRMATIVE DEFENSE

52. If plaintiff was stopped by NYPD officers, they had reasonable suspicion and/or probable cause to do so.

SEVENTH AFFIRMATIVE DEFENSE

53. Defendant Correa acted reasonably in the lawful and proper exercise of his discretion and did not violate any clearly established constitutional or statutory right of which a reasonable person would have known, and, therefore, is entitled to qualified immunity.

EIGHTH AFFIRMATIVE DEFENSE

54. Plaintiff failed to mitigate his alleged damages.

NINTH AFFIRMATIVE DEFENSE

55. Punitive damages cannot be assessed against the City of New York and

Correa in his official capacity.

WHEREFORE, defendants City of New York and Officer Correa demand judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

DATED: New York, New York
March 28, 2014

Respectfully submitted,

ZACHARY W. CARTER
Corporation Counsel of the
City of New York
Attorney for Defendants City and Correa
100 Church Street, Room 3-183
New York, New York 10007
(212) 788-2354
lsohn@law.nyc.gov

By: ______________________
Liza Sohn